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Letter dated 17 March from the Permanent Representative of the Democratic Republic of the Congo to the United Nations addressed to the President of the Security Council

On instructions from my Government, I have the honour to transmit herewith the official position of the Democratic Republic of the Congo concerning the renewal of the mandate of the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo prior to the meeting of the Security Council on this subject (see annex).

I should be grateful if you would have this letter and its annex circulated as a document of the Security Council.

(*Signed*) Mr. Ignace **Gata Mavita**
Ambassador
Permanent Representative

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Annex to the letter dated 17 March 2017 from the Permanent Representative of the Democratic Republic of the Congo to the United Nations addressed to the President of the Security Council

Meeting of the United Nations Security Council on the renewal of the mandate of the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo

Position of the Government of the Democratic Republic of the Congo

In connection with the renewal of the mandate of MONUSCO, the Government of the Democratic Republic of the Congo (the Government) submits to the United Nations Security Council its official position on certain issues to be discussed that shape the implementation of that mandate.

This assessment of the general situation in our country is based on both a concern to assert the principle of national sovereignty and the need to promote, to the greatest extent possible, constructive cooperation with the United Nations, in order to avoid any unnecessary risk of political or security developments that would undermine the progress made.

The position of the Government addresses the following issues:

- The political situation and the electoral process
- The security situation
- The human rights situation
- Efforts to counter sexual violence and the recruitment of child soldiers
- The strategic dialogue between the Government and MONUSCO
- Recommendations.

I. The political situation and the electoral process

A. Political dialogue

1. Background

At the request of the President of the Republic, His Excellency Mr. Joseph Kabila Kabange, the two-phase political dialogue in the Democratic Republic of the Congo has produced two agreements: the agreement of 18 October 2016 signed at the Cité de l'Union africaine, facilitated by Mr. Edem Kodjo, and the agreement of 31 December 2016 signed at the Kinshasa Inter-diocesan Centre and facilitated by the Conférence épiscopale nationale du Congo.

The current political focus of the Democratic Republic of the Congo is implementation of the political agreement of 31 December 2016 and the finalization of the special arrangement.

Although both of these agreements have benefited from exploring ways and means to organize free, democratic and transparent elections through a peaceful transition, the dialogue of 18 October 2016 was qualified as non-inclusive because of the non-participation, not only of the Rassemblement des forces politiques et sociales, but also of the Front républicain pour le respect de l'ordre constitutionnel et l'alternance démocratique, certain segments of civil society and the Conférence épiscopale nationale du Congo, which suspended its participation.

An assessment of the two agreements indicates that the issues raised at the Cité de l'Union africaine were also discussed at the Kinshasa Inter-diocesan Centre in the context of the agreement of 31 December 2016; the outcome was identical in both cases.

The outcome was:

- The commitment of all parties to comply fully with the Constitution and the laws of the Republic
- Support for the continuity of the State and its institutions
- The appointment of a prime minister chosen from among representatives of the political opposition
- The establishment of a structure to monitor the Agreement
- The organization of a single national process for the presidential, legislative and provincial elections
- The electoral calendar
- Recognition of the National Independent Electoral Commission as the body in charge of organizing elections.

The points of convergence observed during the dialogue at the Cité de l'Union africaine have been consolidated and included in the document signed by the stakeholders.

Delegates also agreed to continue their discussions during the signing of the special arrangement, with a view to clarifying practical modalities for implementation of the agreement's provisions and to resolving the main points of division.

The special arrangement addresses the following issues: the appointment of the prime minister; the formation of the government (budgetary allocations, quotas by component, and so on); the establishment of the Conseil national de suivi de l'Accord; the timetable for the implementation of the agreement; the revitalization of the National Independent Electoral Commission; the renewal of the High Audiovisual and Communications Council; and specific recommendations.

2. Obstacles

Despite the points of convergence that were found following several concessions made by the presidential majority under the leadership and moral authority of the President of the Republic, a few issues still hinder implementation of the agreement through the signing of the special arrangement. The main issue is the procedure for nominating a prime ministerial candidate and for replacing the chair of the Conseil national de suivi de l'Accord.

(a) Procedure for designating the prime minister

The implementation of section III.3 of the agreement is subject to the signing of the special arrangement, which shall determine its practical modalities. It is in this context that important issues, in particular concerning the profile of the prime ministerial candidate, the procedure for his or her nomination and appointment by the Head of State in accordance with article 78 of the Constitution, the size and form of the future government, and the division of responsibilities across institutions, were deferred to future discussions among delegates.

(b) Replacement of the president of the Conseil national de suivi de l'Accord

The president of the Conseil national de suivi de l'Accord was appointed by consensus. His replacement should be selected in the same way.

Following the sudden death of Mr. Etienne Tshisekedi wa Mulumba, the President of the Union pour la démocratie et le progress social and chair of the Conseil des sages of the Rassemblement, the Government recalls that, with regard to his replacement, the spirit of the agreement had been to assign the chairmanship of the Conseil to Mr. Etienne Tshisekedi in his personal capacity, and not to the Rassemblement. Therefore, the Rassemblement should not claim the sole right to choose another candidate for his replacement, to the exclusion of all other stakeholders.

The replacement candidate must come from the opposition, but with the consent of the presidential majority, since he or she must be a consensus candidate.

The Government urges the political opposition, and the Rassemblement in particular, to overcome its current divisions in order to agree on the candidate for the future president of the Conseil national de suivi de l'Accord.

The Government confirms that, at this stage, there is practically nothing left to do except to await the outcome of the discussions. In fact, it is for the Rassemblement to take the next step, as the party must submit:

- The list of candidates for prime minister
- A consensus candidate for the presidency of the Conseil national de suivi de l'Accord.

It should be noted that the work for the conclusion of the special arrangement was resumed on 15 March 2017 under the auspices of the Conférence épiscopale nationale du Congo.

B. Electoral process

Voter registration began on 31 July 2016 in 13 provinces and will be conducted in the 13 remaining provinces from April 2017 to 31 July 2017.

As of 13 March 2017, despite many operational challenges, the National Independent Electoral Commission has registered close to 20 million of the 41,135,072 voters expected throughout the national territory.

The Government supports the efforts of the Commission to ensure, on the one hand, effective security arrangements for the reform of the electoral roster and the establishment of a security plan and budget, and on the other hand, the operational capacity-building of the Congolese national police forces assigned to security detail for the forthcoming elections.

To date, the electoral process has been funded by the Government and receives logistical support from MONUSCO. However, the common basket fund for the United Nations Development Programme project to support the electoral cycle is still waiting for its partners to make funds available. For the National Independent Electoral Commission, prerequisites for the publication of the electoral calendar are a valid disbursement plan for the Government funding and any support from partners, information on the level of international logistical support, and the establishment of the transitional authorities with which it shall work to organize the elections.

The Commission looks forward to the effective implementation of the political agreement of 31 December 2016. The agreement stipulates, inter alia, that the Commission shall publish a consensual timetable after a joint evaluation with the Conseil national de suivi de l'Accord and the Government. The delay in the finalization of the special arrangement and the establishment of those bodies (the Government and the Conseil national de suivi de l'Accord), have a direct impact on calendar deadlines pertaining to the electoral process, in particular on the dates for the organization of elections.

The Government of the Democratic Republic of the Congo confirms that it will spare no efforts to enable the Commission, in collaboration with the whole of the country's political class, to create the conditions for a peaceful, credible and transparent electoral process.

II. The security situation

The main security concerns pertain to:

- The ongoing military operations of the Armed Forces of the Democratic Republic of the Congo, with the support of MONUSCO, against foreign and local armed groups, in particular the Allied Democratic Forces, the Forces démocratiques pour la libération du Rwanda, the Lord's Resistance Army and the former Movement of 23 March, as well as other small residual and opportunistic groups.
- The instability along the borders with South Sudan and Burundi, characterized by movements of people fleeing conflict in their countries.

– The activity of the Kamwina Nsapu militia in the Provinces of Kasai-Central, Kasai and Kasai-Oriental.

– The Bantu-Pygmy conflict in Tanganyika Province.

A. Allied Democratic Forces

Today, the main strongholds of the Allied Democratic Forces have fallen and their operational capacity has been substantially reduced.

However, some residual elements are still active. These elements have changed their modus operandi, adopting a non-conventional, asymmetrical warfare technique. Moreover, they commit terrorist acts and human rights violations on a massive scale, carrying out repeated massacres of civilian populations in isolated villages in the Beni area and its environs, and they recruit children and women as combatants in the region.

Nevertheless, the Armed Forces of the Democratic Republic of the Congo, with MONUSCO support, are tirelessly pursuing them.

B. Forces démocratiques pour la libération du Rwanda

On 27 January 2015, the Armed Forces of the Democratic Republic of the Congo resumed its operations against the elements that continue to resist voluntary disarmament. Updates on operations indicate that, to date, 993 fighters of the Forces démocratiques pour la libération du Rwanda have been neutralized (killed or captured or have surrendered), of whom 239, as a result of the military pressure, have surrendered to and been repatriated by MONUSCO.

The Democratic Republic of the Congo has made every material, human and financial effort possible to honour its commitments under the Peace, Security and Cooperation Framework for the Democratic Republic of the Congo and the Region, including the second regional commitment, which prohibits signatory States from providing assistance to armed groups in order to destabilize neighbouring countries. It has also done all it can to uphold the sixth and seventh commitments, which prohibit signatory countries from providing protection to alleged perpetrators of war crimes or genocide, and require judicial cooperation between States with a view to prosecuting such persons.

C. Former Movement of 23 March

In the past five months this movement has made efforts to resume its aggression against the Congolese Government, under the command of former colonel Sulutani Makenga, in violation of the Peace, Security and Cooperation Framework of 24 February 2013 and the declarations on the commitments made by the Movement of 23 March at the conclusion of the Kampala Dialogue in Nairobi on 12 December 2013.

There are reports of several infiltration operations that led to skirmishes, resulting in the defeat of these former Movement of 23 March fighters and their flight to Uganda or to Rwanda.

At the request of the Government of the Democratic Republic of the Congo, the International Conference on the Great Lakes Region sent a joint verification team to Mbarara, Uganda, on 1 March 2017 to carry out a verification mission. On 2 March 2017 in Kisoro, the team met with the former rebels who had surrendered to the Office of the United Nations High Commissioner for Refugees after fleeing to Uganda with their weapons following clashes with the Armed Forces of the Democratic Republic of the Congo in the vicinity of Songa Hill, Bwisha sector, between Rwanguba and Karambi in Rutshuru territory.

The Government hereby reaffirms its determination to meet its commitments under the Peace, Security and Cooperation Framework, and calls on other signatories to do the same.

D. The situation at the border between the Democratic Republic of the Congo and South Sudan

For humanitarian reasons, on 17 August 2016 MONUSCO evacuated 635 combatants affiliated with the Sudan People's Liberation Movement/Army in Opposition, under the command of Riek Machar, who had crossed from South Sudan into Garamba Park in the Democratic Republic of the Congo. The fighters had been hiding in the park with 133 weapons since their defeat at Juba by Government forces.

On 3 September 2016, 524 elements were transferred to the MONUSCO disarmament, demobilization, repatriation, reintegration and resettlement camp at Munigi, 7 kilometres from Goma in North Kivu.

To date, there are 82 elements at Dungu and 542 at Munigi.

The Government calls on all relevant partners to mobilize the necessary resources for the speedy return of these former combatants to their countries of origin or their transfer to a third country.

E. The situation at the border between the Democratic Republic of the Congo and Burundi

The Government strongly objects to the continued infiltration into Congolese territory of Burundian rebels coming from neighbouring States.

Following the establishment of the Forces républicaines du Burundi rebel group in Nyungwe Forest, more than 228 fighters, including 189 Burundians, 22 Tanzanians and 17 Rwandans, were apprehended in Fizi and Uvira territories in South Kivu.

Between 5 February and 3 March 2017, 12 leaders, including four Ugandans, of another rebel group, Coalition des jeunes patriotes Burundais, were arrested.

The Government calls on the international community as a whole, and particularly the United Nations Security Council, to become more active in seeking solutions to the crisis in Burundi by committing to play a genuinely constructive role in the interests of the Burundian people and regional stability.

F. The Kamwina Nsapu militia

This violent mystical-political movement with terrorist leanings uses weapons of war, 12 mm firearms and knives (such as machetes and spears). It was established in August 2016 in Dibaya territory, Kasai Central, by Mr. Jean Prince Pandi, a 50-year-old self-proclaimed traditional chief who used the alias Kamuina Nsapu. He died on 12 August 2016 in clashes between his militia and the security forces at Tshimbulu in Kasai Central.

1. Modus operandi of the militia fighters:

The militia fighters use the civilian population, particularly children and women, as human shields.

They forcibly recruit young people, and even children

They commit grave human rights violations (mutilations, beheadings, burning of villages, desecration of churches and attacks on hospitals and schools).

They use drugs and engage in fetishistic practices.

They use propaganda to spread panic amongst the population.

In small groups, they attack public buildings that symbolize State authority, such as police stations, army outposts and administrative offices.

2. Measures taken by the Government of the Democratic Republic of the Congo

In order to restore State authority in this part of the country, and in addition to police operations at the chiefdom and grouping levels to maintain public order and protect people and their property, the Government is raising awareness among the population and encouraging citizens not to resort to violence.

G. The Bantu-Pygmy conflict in Tanganyika Province

On the initiative of the President of the Republic, His Excellency Joseph Kabila Kabange, the two communities were brought together at a forum on 22 February 2017 at Kalemie, the capital of Tanganyika Province. During the forum, the statements of both groups were examined with a view to identifying the root causes of the conflict. The review led to the identification of approaches to consensus-based, inter-community solutions, which were set out in resolutions that were binding on the two communities represented.

III. The human rights situation in the Democratic Republic of the Congo

The Government is firmly committed to the promotion and protection of human rights, and is open to receiving support from any partners in order to achieve the goal that it has voluntarily set itself. This is a strong commitment in terms of both legislation, through the country's accession to seven of the nine principal human rights treaties and several other international legal instruments for the protection of human rights, including the Rome Statute of the International Criminal Court; and institution-building, as the Democratic Republic of the Congo established the National Human Rights Commission to serve as a liaison entity for human rights matters and to provide a framework for dialogue between civil society and the Government.

With regard to its collaboration with certain United Nations human rights structures, the Government strongly objects to the approach of the United Nations Joint Human Rights Office in Kinshasa. The role of the Office is to assist the Government in its efforts to promote the protection of human rights; accordingly, it has a duty to share information with the Government prior to publication.

Since transparency between partners is crucial, the work of the Office can only be effective if it balances the universal requirements of human rights with the legitimate right of review of its partner Government.

The Office should not seek to report, let alone publish dramatic coverage of, human rights violations, but rather it should aim to support the Government in its objective efforts to make progress with regard to human rights.

It should be noted that the Government does not have a deliberate stance on violating human rights, just as a whole army cannot be held collectively responsible for mass human rights violations. The offence is entirely individual, and the first duty of the State is to initiate proceedings against recalcitrant perpetrators. This is why the Government is committed to improving the way investigations are conducted, and also to ensuring that they are successfully closed, in order to fight impunity effectively.

IV. Efforts to counter sexual violence and the recruitment of child soldiers

The Democratic Republic of the Congo has made great efforts to counter sexual violence and the recruitment of child soldiers. It is in this context that the Head of State has appointed a personal representative on this issue, who has, together with the ministries of justice and defence, greatly contributed to these efforts.

With the support of the United Nations, with which the Government signed a joint communiqué that resulted in the implementation of the action plan of the Armed Forces of the Democratic Republic of the Congo, these efforts have led to the conviction of many senior army and police officers and to a significant decrease in cases of conflict-related sexual violence.

In addition to the military and civilian justice response, there has been strong mobilization among non-governmental organizations, the private sector and multilateral partners with regard to the socioeconomic reintegration of sexual violence survivors and children removed from armed groups.

It should be noted that in the context of the implementation of the action plan to combat the recruitment and use of child soldiers and other grave violations of children's rights, important steps have been taken in the following areas: separation and protection, response, prevention, and the fight against impunity.

The efforts of the Government in the fight against child recruitment were documented in a 2015 audit conducted by the independent Swedish firm "Mo Consult" in collaboration with the United Nations Children's Fund. The audit confirmed that there are no more children in the Armed Forces of the Democratic Republic of the Congo.

In light of these developments, which are confirmed by various United Nations reports from 2013 to 2016, the Government requests that the Democratic Republic of the Congo be removed from the list of countries with a high incidence of rape and for the Armed Forces of the Democratic Republic of the Congo to be removed from the list of countries whose armies recruit and use children in situations of armed conflict.

V. The strategic dialogue with MONUSCO

The strategic dialogue between the Government and MONUSCO took place from 9 to 19 March 2016 at the Ministry of Foreign Affairs in Kinshasa. The joint working group that was established produced a number of conclusions that were signed by both parties on 19 March 2016. The consolidated version of the conclusions adopted is as follows:

- In all seven zones concerned, including North and South Kivu, the reduction of the MONUSCO force is entirely justified
- In other areas, such as Tshopo, Tanganyika, and Haut-Uélé provinces, the presence of the force is not at all justified, with the exception of the unit for the protection of civilian personnel
- For most of the remaining security challenges, the MONUSCO force (with the exception of the special intervention brigade) is no longer the appropriate response
- Virtually all actions that need to be taken are ultimately the responsibility of the Congolese Government.

Consequently, the Government requests the following from the Security Council:

- Formal recognition of the conclusions of the joint working group as signed by both parties on 19 March 2016 in the context of the strategic dialogue.

- Reiteration of the need to organize the second phase of this strategic dialogue in order to establish the timeline leading up to the orderly and definitive withdrawal of MONUSCO from the Democratic Republic of the Congo.

- With regard to the actual reduction of the force, the Democratic Republic of the Congo seeks a joint assessment by the Government and the Department of Peacekeeping Operations, with the participation of partners in the region (the Southern African Development Community and the International Conference on the Great Lakes Region) so as to balance the requirements for the reduction of the United Nations force with the imperatives of robustness and effectiveness. In short, responses must be formulated that are appropriate to the true nature of the remaining challenges on the ground.

VI. Recommendations

A. The political situation and the electoral process

(1) Commend the facilitation efforts made by the Conférence épiscopale nationale du Congo;

(2) Call on all political actors to continue to work together in good faith and in the constructive spirit of compromise, following the conclusion of the special arrangement;

(3) Urge the political opposition, primarily the Rassemblement, to overcome its current divisions in order to agree on a candidate for the future president of the Conseil national de suivi de l'Accord and to submit the list of candidates for prime minister;

(4) Call upon the international community and all partners to engage effectively in mobilizing resources for the elections in the Democratic Republic of the Congo by removing any element of conditionality;

(5) Call on all political entities to respect the agreements for the organization of elections in a peaceful climate and to raise awareness among their supporters as well as the larger population with regard to registration;

(6) Strengthen the technical and logistical support capacity of MONUSCO so it can more effectively support the National Independent Electoral Commission and the electoral process.

B. Security situation

(1) Strengthen the firepower of the special intervention brigade in the operational theatre and provide it with the necessary logistical support tailored to its mission, especially with regard to:

(a) Equipment for listening, tracing and geo-positioning;

(b) Long-range (500 km) unmanned aerial vehicles with equipment adapted to forest and mountain areas;

(c) Mobility (means of ground and air transport to support mobile field teams);

(d) Night-vision equipment for night combat and thermal detection;

(e) Combat rations.

(2) To address civilian protection by improving the coordination of operations between the Forces armées de la République démocratique du Congo and MONUSCO units in the settlements under threat;

(3) Strengthen the capacity for medical evacuations and supply trips in hard-to-reach areas;

(4) Ensure that the information collected by unmanned aerial vehicles is shared in an effective manner;

(5) Adapt to the requirements of asymmetric warfare (specialized units);

(6) Streamline procedures for engagement in operations;

(7) Improve coordination of operations, particularly in aerial bombardments;

(8) Increase the commitment of ground troops to enable the elements of the special intervention brigade to provide much closer support to Forces armées de la République démocratique du Congo during ground offensives.

(9) Call on States in the region to honour the commitments that they freely entered into under the Peace, Security and Cooperation Framework for the Democratic Republic of the Congo and the Region, including the second regional commitment, which prohibits signatory States from providing assistance to armed groups in order to destabilize neighbouring countries. States should also uphold the sixth and seventh commitments, which prohibit signatory countries from providing protection to alleged perpetrators of war crimes or genocide, and require judicial cooperation between States with a view to prosecuting such persons.

(10) Request the evacuation to Rwanda or a third country of troops of the Forces démocratiques pour la libération du Rwanda in transit camps in the Democratic Republic of the Congo. The same goes for South Sudanese combatants;

(11) Call for the immediate cessation of infiltration into Congolese territory of Burundian rebels coming from neighbouring States.

(12) Recall the mandate for the protection of civilians and for the fight to eradicate all armed groups;

(13) Call for enhanced cooperation in the Great Lakes Region with a view to neutralizing the armed groups present in the eastern part of the Democratic Republic of the Congo and promoting peace and stability in the region.

C. Human rights situation

(1) Recognize the efforts made by the Government of the Democratic Republic of the Congo in this area;

(2) Recall the role of the Adviser to the United Nations Joint Human Rights Office of MONUSCO;

(3) Urge the opposition forces to take responsibility for ensuring the peaceful nature of their assemblies;

(4) Call on all political parties, their supporters, and other political actors to exercise maximum restraint in their actions and statements, to refrain from violence, violent speeches or other provocations and to address their differences peacefully, especially during this highly sensitive pre-electoral period.

D. The fight against sexual violence and the recruitment of child soldiers

(1) Recognize the efforts made by the Democratic Republic of the Congo to combat sexual violence and the recruitment of child soldiers;

(2) Recommend the removal of the Democratic Republic of the Congo from the list of countries with a high incidence of rape;

(3) Recommend the removal of the Democratic Republic of the Congo from the list of countries whose armies recruit and use children in their armed forces;

(4) Emphasize the need for criminal accountability for the recruitment and use of child soldiers.

E. Strategic dialogue with MONUSCO

(1) Formally recognize the conclusions of the joint working group signed by both parties on 19 March 2016 in the context of the strategic;

(2) Reiterate the need to organize the second phase of this strategic dialogue in order to establish the timeline leading to the orderly and definitive withdrawal of MONUSCO from the Democratic Republic of the Congo;

(3) With regard to the actual reduction of the force, recommend a joint assessment by the Government and the Department of Peacekeeping Operations, with the participation of partners in the region (the Southern African Development Community and the International Conference on the Great Lakes Region), in order to balance the need to reduce the United Nations force with the imperatives of robustness and effectiveness. In short, responses must be formulated that are appropriate to the true nature of the remaining challenges on the ground.

New York, 17 March 2017